

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte AVGERINOS V. GELATOS,
OLKAN CUVALCI,
TONG ZHANG,
AND CHEN-AN CHEN



Application No. 10/792,054

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was received electronically at the Board of Patent Appeals and Interferences on July 21, 2007. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

On May 15, 2006, appellants filed an Appeal Brief under 37 CFR § 41.37. A review of the file reveals that the “Summary of Claimed Subject Matter,” as required by 41.37(c)(1)(v), is not properly set forth. 37 CFR § 41.37(c)(1)(v) which states:

(v) ***Summary of claimed subject matter.*** A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters.

The independent claims must be mapped to the **disclosure**, including **specification page and line number, and, if applicable, drawing reference characters.**

Correction is required. MPEP § 1205.03 states:

When the Office holds the brief to be defective solely due to appellant's failure to provide a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v), an entire new brief need not, and should not, be filed. Rather, a paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v) will suffice. Failure to timely respond to the Office's requirement will result in dismissal of the appeal. See MPEP § 1215.04 and §711.02(b).

On June 13, 2006, an Examiner's Answer was entered into the record. A review of the file reveals that the required headings "Related appeals and interferences (2)", and "Related Proceedings Appendix (11)" are missing from the Examiner's Answer. See the Manual of Patent Examining Procedure (MPEP) 1207.02. Appropriate correction is required.

Accordingly, it is

ORDERED that the application is returned to the Examiner:

- 1) hold the Appeal Brief of May 15, 2006, defective;
- 2) notify applicants to file a paper providing a summary of the claimed subject matter as required by 37 CFR § 41.37(c)(1)(v);
- 3) consider the paper providing a summary of the claimed subject matter as required by 37 CFR 41.37(c)(1)(v);

- 4) issue a PTO-90 having the appropriate headings under the new rules effective September 13, 2004; and,
- 5) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

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